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Attorney for Defendant
Carlos Saavedra Vasquez

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. CARLOS SAAVEDRA VASQUEZ, Defendant.	Case No. 08CR0302-JLS DECLARATION OF COUNSEL IN OPPOSITION TO MATERIAL WITNESS DEPOSITION AND/OR RELEASE OF WITNESS PRIOR TO TRIAL

I, Mark F. Adams, after having been duly sworn, depose and state:

I am an attorney at law duly licensed to practice before all of the courts of the State of California, the United States District Court for the Southern District of California, the United States Court of Appeals for the Ninth Circuit, and the Supreme Court of the United States. I am appointed by the court pursuant to Title 18 United States Code, § 3006A to represent Carlos Saavedra in the above-captioned criminal case.

Defendant, Carlos Saavedra, is charged in a six count criminal indictment with charges carrying a mandatory minimum sentence of five years, including, Bringing in Illegal Aliens for Financial Gain in violation of Title 8 U.S.C. § 1324(a)(B)(ii).

This morning I was provided with 90 pages of discovery and a computer disc of what I assume are the statements taken from the witnesses, including the accused, at the time of arrest. None of these discovery materials have been reviewed in any great detail prior to preparing this declaration and the opposition papers filed herewith.

I cannot effectively assist Mr. Saavedra without a clear understanding of the facts of the case and the relationships between Mr. Saavedra, his co-defendant, and the persons arrested with him on January 23, 2008. As of this date, I do not have a clear understanding of the facts of this case or of the relationships involving those arrested by government agents on January 23, 2008 and charged or named in the Indictment in this case.

Unless and until defense investigation is complete, it will be impossible to adequately discharge my responsibilities as counsel with respect to the questioning of witness Nuria Christina Ramirez. I cannot adequately discharge my responsibilities as counsel until I have had a meaningful opportunity to investigate the facts of the case, the background of the witnesses, and the circumstances of their apprehension by government agents. I am unprepared to meaningfully cross examine the material witness or otherwise go forward with a deposition of Nuria Christina Ramirez at this time.

I cannot envision conducting a deposition of the material witness unless and until I have all of the necessary discovery, complete a thorough defense investigation, formulate a cohesive theory of the defense, and in essence, be fully prepared for a trial of the case. In short, rather than conduct a deposition, I would rather try the case to a jury.

A video deposition used at trial will deny Mr. Saavedra the right to a fair trial. I have previously tried a case in this district where a video deposition was used as evidence at trial and my conclusion is that procedure invariably results in a manifest failure of justice. Trial theories inevitably change, even during the trial. Oftentimes late discovery suggests new lines of inquiry for the witness which is thwarted by the deposition procedure. Finally, a deposition denies the jury the opportunity to meaningfully evaluate the demeanor of the witness including the important nuance of live, personal interaction in court.

I have reviewed the points and authorities filed with this declaration. All of the facts alleged in that pleading are true and correct to the best of my knowledge and understanding.

I declare under the penalty of perjury that the forgoing is true and correct and that this declaration was executed on February 14, 2008 at San Diego, California.

/s/ Mark F. Adams
MARK F. ADAMS